

REMARKS

In the Office Action dated May 15, 2007, Claims 20-24, 27-34 and 39-47 were allowed, and Claims 1-18, 25, 26 and 35-38 were provisionally rejected on the ground of non-statutory obviousness-type double patenting in view of the claims of commonly-owned co-pending U.S. Application No. 11/262,299.

The undersigned thanks the Examiner for discussing this application by telephone on September 14, 2007. As discussed with the Examiner, Applicants respectfully request withdrawal of the provisional double-patenting rejection, as Applicants submit that under the Manual of Patent Examining Procedure (MPEP), this is the proper Patent Office practice in the circumstances of this case. MPEP § 804(I)(B) addresses situations where two co-pending applications filed by the same inventive entity would raise an issue of double patenting if one of the applications became a patent. According to § 804(I)(B)(1):

[i]f a “provisional” nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

Here, the present application is the earlier filed application (filed August 21, 2003), while the application cited in the provisional ODP rejection is the later-filed application (11/262,299 was filed on October 27, 2005). Furthermore, the provisional ODP rejection is the only rejection remaining in the earlier-filed application. (The later application has been rejected on other grounds, as indicated in References C2 and C3 in the Information Disclosure Statement filed herewith). Thus, MPEP § 804(I)(B)(1) describes the present situation exactly, and specifies that the examiner should withdraw the double patenting rejections from this case, and allow the application to issue without a terminal disclaimer.

Reconsideration of the provisional double patenting rejections and allowance of the present application is respectfully requested.

Information Disclosure Statement

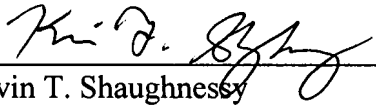
A Supplemental Information Disclosure Statement (SIDS) is being filed concurrently herewith. Entry of the IDS is respectfully requested.

CONCLUSION

In view of the above remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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